

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
STEWART TITLE GUARANTY)	
COMPANY,)	
Plaintiff /Third Party Plaintiff,)	
v.)	
)	
UBS PRINCIPAL FINANCE LLC,)	
I-PARK GROVE WILLOW LLC,)	DOCKET NO. 04-10783-GAO
I-PARK WEST SEYON LLC, and)	
CHICAGO TITLE INSURANCE)	
COMPANY)	
Defendants)	
and)	
)	
BSC GROUP, INC.)	
Third Party Defendant)	
_____)	

PLAINTIFF'S THIRD PARTY COMPLAINT

Pursuant to Fed. R. Civ. P. 14(b), the Plaintiff, Stewart Title Guaranty Company hereby asserts this third party complaint against BSC Group, Inc.

1. The Third Party Plaintiff, Stewart Title Guaranty Company ("Stewart"), is a Texas corporation with a principal place of business in Houston, Texas.
2. The Third Party Defendant, BSC Group, Inc. ("BSC"), is a Massachusetts corporation with a principal place of business in Boston, Massachusetts.
3. Stewart commenced the underlying action against UBS Principal Finance LLC ("UBS"), I-Park Grove Willow LLC ("I-Park Grove Willow"), and I-Park West Seyon LLC ("I-Park West Seyon"), all of which are Delaware limited liability companies with principal places of business in New York, New York.
4. Stewart filed a First Amended Complaint in this action, a copy of which is attached to this Third Party Complaint as Exhibit "A."

5. UBS, I-Park Grove Willow, and I-Park West Seyon filed an answer to the Plaintiff's First Amended Complaint and a Counterclaim. A copy of the document entitled "Defendents (sic), UBS Principal Finance LLC, I-Park Grove Willow LLC and I-Park West Seyon LLC's Answer, Counterclaim and Affirmative Defenses Answer" is attached to this Third Party Complaint as Exhibit "B."

6. BSC is not a party to the original action.

7. In their counterclaim, the Defendants have asserted claims against Stewart under the "Land Same as Survey Endorsements" contained in two policies of title insurance.

8. The basis of the Defendants' claims under the "Land Same as Survey Endorsements" is that surveys prepared by BSC with respect to the Property were "materially incorrect."

9. The Defendants have claimed damages resulting from the alleged survey errors and seek payment from Stewart under the title insurance policies.

10. The surveys which form the basis of the counterclaim were prepared by BSC, and in each of them BSC certified to Stewart and UBS, among others, that the survey "correctly shows (i) the facts found at the time of the survey, (ii) the location of all buildings, structures and other improvements situated on the above premises, [and] (iii) the courses and measured distances of the exterior property lines of the premises and any setbacks or easements located on or affecting the said premises."

11. With a letter dated November 6, 2003, Stewart tendered two checks to UBS in the total amount of \$365,000. In the November 6 letter, Stewart indicated that the amount tendered represented what appeared at that time to be the insured claimants' maximum possible loss


according to appraisals.

12. By paying the claim, in accordance with Paragraph 12 of the Conditions and Stipulations of the Policies, Stewart became "subrogated to and . . . entitled to all rights and remedies which the insured claimant[s] would have had against any person or property in respect to the claim had [the] polic[ies] not been issued."

13. To the extent that the Defendants prove any damages in connection with their counterclaim, BSC must indemnify Stewart for all such damages, plus costs of defense and attorneys' fees.

WHEREFORE, the Third Party Plaintiff, Stewart Title Guaranty Company requests that the Court enter judgment in favor of Stewart Title Guaranty Company and against the Third Party Defendant BSC Group, Inc. in the amount of all damages proven by the Defendants UBS Principal Finance LLC, I-Park Grove Willow LLC, and I-Park West Seyon LLC in connection with their counterclaim, including all amounts paid by Stewart to date, plus Stewart's costs of defense and attorneys' fees; and grant such other relief as the Court deems just.

STEWART TITLE GUARANTY COMPANY
By its attorneys,


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Dated: June 28, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail/by hand.

DATED: 6/28/04 TML